

March 12, 2002

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██████████  
Waimanalo, Hawai'i 96795

0402-02-89

U.S. Environmental Protection Agency  
1200 Pennsylvania Ave. NW  
Washington, DC 20460

Marsha Minter  
Office of the Administrator - MC-1101-A

**Re- Formal Title VI Complaint**

Dear Ms Minter,

I am writing you to file a formal complaint under the EPA Title VI of the Civil Rights Act of 1964 ,Public Law 92-500 collectively, the Acts or (Title VI) regarding racial discrimination, which I am receiving from the United States Air Force (USAF) and United States Marines (USMC) in Hawai'i while serving my community as their Restoration Advisory Board (RAB) Chairman for the Bellows Air Force Base (AFB), Waimanalo, Hawai'i.

This program is under the command of ██████████, Commander, 15<sup>th</sup> Air Base Wing, 800 Scott Cir., Hickam AFB, Hawai'i 96853-5328. The (RAB) is shared by The Environmental Compliance & Protection, Marine Corps Base Hawaii, Box 63002, Kaneohe, Hawai'i 96863-3002. The Air Force has been and continues to be the lead command organization.

*In 1996, ██████████, representing the USAF, came into Waimanalo and solicited the community to form a Restoration Advisory Board for the environmental clean up work needing to be done at Bellows AFB, Waimanalo, Hawai'i. ██████████ is caucasian.*

*In 1997, the RAB was officially started with 15 community members including myself.. ██████████ became the Military Co-chair for the process. I was elected by my fellow RAB members as its Community Co-chair . Since its inception I have been its only Chairperson. The RAB is operated under a Charter Agreement between the Air Force and the community of Waimanalo. It binds us together for the process of restoring and cleaning-up Bellows AFB. The Charter was revised in Aug. 2000 to include the U.S. Marine Corps. In the transfer of land, the Marines will receive approximately 1,000 acres out of 1,600 acres on Bellows AFB for training.. According to our RAB charter, a Comm. Co-chair is elected by his community RAB members and removed **only by them**.*

Mr. William Barry, who initially started our RAB in 1997 remained the military Co-chair until his reassignment to Washington in late 2000.

In 2000, while conducting our RAB, the transfer of land at Bellows AFB to the Marines began. This gave our RAB two new military Co-chairs. **Currently, they are [REDACTED], Marine Co-chair and [REDACTED] Air Force Co-chair. (Both men are Caucasian)**

The Department of Defense (DoD) lead for the cleanup has been, and is, the Air Force's 15<sup>th</sup> Air Base Wing, Environmental Flight, out of Hickam AFB, Hawai'i, currently commanded by [REDACTED]. [REDACTED] became Commander of the 15<sup>th</sup> Air Base Wing, Environmental Flight, in late 2000. [REDACTED] is also Caucasian)

While this complaint will attempt to summarize the recently documented acts of discrimination and disparate treatment against me, there is also an ongoing display of wrongful and unlawful acts which are violations of federal law, against myself, by the USAF and the USMC.

It is important to outline these blatant displays of prejudicial treatment I am receiving. What follows is a short bio of myself and a summary outline documenting these discriminatory acts.

*My name is [REDACTED] I am of African/American Indian descent and a U.S. citizen. I have lived in Hawai'i since my 1972 discharge from the U.S. Marines. I am a Waimanalo resident and business owner in Waimanalo for the past 22 years.*

*As a landscape designer/builder/plant nursery/and consultant in business here since 1978, my personal and business accomplishments have been many; most recently the landscaping of the Hawaiian Waters Adventure Park (1999). I have also received Employer of the Year honors from the Honolulu Rotary Club (1997). I have been an active and respected community leader in Waimanalo for over 20 years, and I serve as its Restoration Advisory Board (RAB) Community Co-Chair, and also serve on various neighborhood boards for litter control and water quality committees.*

*I have also been active in my state as its Trails and Access Advisory Board Chairman (Oahu/and State wide) from 1996-2001 and a member since 1989 (a State of Hawai'i, Department of Land and Natural Resources, Division of Forestry and Wildlife program). I am also a member of the environmental organization, EnviroWatch, Inc. .*

With this brief bio of myself I hope you can see that serving my community has been a privilege and my honor.

As the Restoration Advisory Board Chair, representing the community of Waimanalo, I have been involved in the following Restoration Advisory Board events:

1997 Sept. -> Community Co-Chairs meet with Thomas (Tade) McCall, Under Secretary of the Air Force, at Hickam AFB. Two Comm. Co-chairs are given an award from Mr. McCall that day, myself and Hickam AFB Comm. Co-chair [REDACTED]. \* [REDACTED], a Caucasian, left the islands for a few years and has recently returned. In a March 5<sup>th</sup> 2002 phone conversation, she called to inform me that she has now been hired (early 2002) as an independent contractor to handle public relations at Bellows AFB for the 15<sup>th</sup> Wing Environmental Flight. \* This Feb. 2002 USAF hire clearly shows the preferential treatment being applied and an example of racial discrimination being displayed against myself to date. I am still Community Co-Chair, however my name is listed at the bottom of the list of newly proposed RAB members to interview given to [REDACTED] (NHB-Chair) on Feb. 26, 2002. Proposed by [REDACTED], USAF Co-Chair. This act also shows the disparate and prejudicial treatment I am still receiving. \* (copies enclosed)

1998 -> Comm. Co-Chairs meet Marilyn Null, Assist. Secretary of the Air Force at an Air Force sponsored dinner.

1998 -> Comm.Co-chairs help organize and set up 1<sup>st</sup> Annual Tri-RAB (a meeting unifying the 3 Oahu Air Force RABs by their Co-chairs) conference at Hickam AFB.

1999 -> Comm. Co-Chairs, 2<sup>nd</sup> Annual Tri-RAB.

1999 -> Comm. Co-Chairs are solicited to participate in setting up a Pacific Environmental Restoration Conference (PERC - 2000). I became a part of the steering committee from Aug. 1999 until April 2000.

1999 -> National RAB Caucus. I attended as a Hawai'i delegate. The 3 day caucus, held in Washington D.C., was attended by delegates from 29 states.

*Disparate treatment and acts of racial discrimination began in April 2001 when I returned my comments in opposition to the Air Force's suggestion to leave a landfill in place at Bellows. In May 2001 I attended an agenda-setting meeting, called in order to set up a RAB meeting at Bellows set for July 2001.*

At this meeting, attended by my two military co-chairs, the Program Managers, and myself, I was presented with a draft copy of the proposed agenda for this meeting. The agenda read "suggested ... tour of landfill (which is) to be covered". My military Co-Chairs and RAB program manager ([REDACTED], Program Manager for Bellow's RAB) all told me it was a done deal with the landfill, leaving me with the certain knowledge that the decision had been made to cover the land fill, without considering our community input and the failure to include myself in the discussion process concerning this decision. **They failed to not only include me but even to inform me. With the failure of RAB protocol at this meeting, and no compromise from my military Co-chairs I left the meeting in protest. Since, I have had to contact our Hawaii Congressional delegation for help and intervention in our RAB as it**

continues to be malfunctioning. { Note } **\*\*( The USAF also operates (2) other RAB's on Oahu, Hi. , under the Command of [REDACTED] . They are the Central Oahu and Hickam, AFB RAB's. They do not however reside or operate these RAB's in Minority / E J communities. These RAB's are not experiencing malfunctioning , and their Community Co-Chairs and members are not being subjected to the same behavior and treatment as myself.)\*\***  
**\*Again demonstrating discrimination and disparate treatment towards myself and our community.\***

Since then, and to date, I have been ignored by [REDACTED], and by my Military Co-chairs while still being recognized and acknowledged by my RAB and the community we represent as its Community. Co-Chairman.

**In July 2001 I found that the designated information repository (the Waimanalo library) did not contain all of the minutes and other pertinent information relating to our RAB. I found that the information and documents, supposedly put into to the repository by the Air force, were either not there or had not been updated in months. I called the Librarian over to confirm my findings and we reported this at our next neighborhood board meeting in July 9, 2001. \* Denying me RAB related Information and documents and therefore excluding and denying me of my benefits provided by this federally funded program . \***

**On July 5<sup>th</sup> & 6<sup>th</sup> in a call to [REDACTED], I requested the missing RAB documents that should have been stored in our repository. I also questioned her in regards to why our repository was not kept up to date. She told me that she needed to have legal advise before she could release Rab related information and or documents, documents that should have been provided to me first, as Comm co-chair and deposited in our repository. The unlawful withholding of these documents has forced me to pursue RAB related information via FOIA (Freedom of Information Act).In spite of filing the FOIA request for RAB information not deposited in the community RAB repository in July 2001, we have not yet to receive RAB related documents regarding cleanup activities at Bellows,AFB. \*These acts are a direct violation of federal laws and deny myself of needed information and service to the RAB program, aid and other benefits provided by the government under the Freedom of Information Act and CERCLA\***

**At a July 9<sup>th</sup>, 2001 Neighborhood Board meeting, [REDACTED], RAB Co-Chair for the Air Force, began to solicit the audience for new RAB members. I was shocked and so were the four (4) other RAB members who also sit on the Neighborhood Board. I had not been advised of this prior to the meeting. It also became clear that the Air Force, under the direction of [REDACTED], was trying to eliminate myself and pick new members to suit their decision regarding the landfill issue, virtually excluding me, wrongfully and unlawfully, and violating our RAB Charter and protocol. \* By this action, my military counterparts are subjecting me to segregation and or separate treatment by attempting to Eliminate and Exclude my participation in this federally funded and administered program and Denying me of federal benefits that this program provides. \***



On July 26, 2001, I organized community leaders in Waimanalo and held a press conference on Bellows AFB to inform the local community and press of the violation of the RAB Charter and CERCLA/SARA mandates and Presidential Executive Order 12898. I also invited the Program Managers to come and give their comments. ***The Marines showed up that day with military police and attack dogs. No one from the program's (RAB-USAF/USMC) attended. \*Again I am subjected to acts of discrimination and disparate treatment by my military Co-Chairs.\****

On September 5<sup>th</sup>, 2001 I met with [REDACTED] and his staff of three (3) lawyers to discuss the landfill.

At that meeting I stressed the importance of trust between the community and Air Force, and spoke of actions that had been taken to date by he and his staff to eliminate and negate our current RAB and myself of 5 years, and how the Military had been employing divisive tactics in the community (not using myself as the community conduit to disseminate information to RAB members as per previous protocol and RAB charter bylaws). Also, why my Air Force Co-Chair was calling my RAB membership without my knowledge, which undermined my authority in the RAB. And why [REDACTED] was requesting meetings with [REDACTED] our Neighborhood Board Chairman and RAB member to discuss RAB business without my knowledge. I asked why RAB information was not in the repository. He did not know. I asked why the Air Force was withholding information from myself and our RAB. And why should I, the RAB Co-Chair, have to FOIA the Military for documents that should already be in the repository. Again we got no straight answer from [REDACTED] regarding any of these questions and the display of discriminatory behavior continues. ***\* These acts directly Deny me the opportunities afforded me under the law to Participate as a (RAB) member and US Citizen which is an integral part of this federal program. \****

What the Colonel did say at our Sept. 5<sup>th</sup>, 2001 meeting was that he had invited [REDACTED] in Aug. 2001 to dinner at the home of a General in order to discuss the landfill. I was not informed of that meeting until the Sept. 5 meeting. The Col. also had met with Waimanalo's State Senator, Fred Hemmings, and State Rep. Joe Gomes, on separate occasions to discuss the RAB and to solicit their support for the Military's decision on the landfill issue (against that of the community); to no avail, as they both have stood behind the community( to remove landfill) on this issue. ***\* It should also be noted that [REDACTED] actions to circumvent normal RAB protocol by soliciting others who have community constituency against my leadership and denies and excludes me from the program. Also divides and impairs my ability as CO-Chairman to carry out my community's wishes regarding our RAB. program. \**** Again I was not a party to these RAB related meetings, ( the Col. knowingly continuing to circumvent the process), nor were there any minutes to document these meetings made available for myself or our RAB membership to view. ***\* As the military Co-Chairs have continued to use wrongful and unlawful methods and criteria of administering this program that subject myself to discriminatory acts continually. They have created an effect of defeating and or substantially impairing accomplishments of the objectives of the RAB program, and displaying disrespecting to me within my community as its only elected RAB Chairman to date.\****

On the 15<sup>th</sup> and 16<sup>th</sup> of September 2001, I, as Community Co-chair, organized the Bellows RAB members and the Waimanalo community and we held a protest rally at Bellows main gate to show our unity and our opposition to the USAF/USMC decision to leave the landfill in place.

From September 2001 until March 4<sup>th</sup> 2002, the USAF/USMC Co-Chairs or [REDACTED] have made no attempt to contact, communicate, notify, include or involve myself in any Bellows AFB RAB related business. **\*While during this time period of (7mos.) He has knowingly and unlawfully excluded Me from my right to participate, again Denying myself from participation through segregation .\***

On March 4, 2002, in a call I received from [REDACTED], RAB member and Neighborhood Board Chairman, I was informed of a note he had received from USAF RAB Co-Chair [REDACTED], soliciting [REDACTED], again, to meet with [REDACTED] outside the RAB protocol and without my presence or notification as RAB Chairman. Since [REDACTED] knew this was being done without my knowledge or involvement, he then faxed me a copy of the note and his letter in response (copy attached).

[REDACTED]'s note cites that a CRP (a program funding trigger) needed renewal. [REDACTED] also sent [REDACTED] ***a list of 20-25 USAF handpicked people (many of whom were not Waimanalo residents) that he was considering for the new RAB membership in Waimanalo .***

***\*[REDACTED]'s most recent actions are without doubt a directive of [REDACTED] and proof to show discriminating practices and harmful fragmenting intentions within our community.\****

***\*Clearly depriving me and restricting me from participation afforded me under protection of federal laws, and restricts me from the Enjoyment of any advantage or privilege that is enjoyed by Others.\****

In [REDACTED]'s letter responding to [REDACTED]'s note of Feb. 26, 2002, he informs and reminds [REDACTED] that (1) all RAB business should come through and involve myself, (2) that it would be dis-respectful to meet with him and without myself being notified and also present at such a meeting relating to RAB/community business, (3) that many of the proposed (new RAB) people he was enlisting were not Waimanalo residents, some not even from this island (Oahu) and why this was?, (4) that [REDACTED] has been meeting with him (informally) monthly and discussing Bellows RAB issues and business, specifically the RAB's malfunctioning and the landfill, (5) he also questioned the exclusion of Carroll Cox.(also of African/American decent), who has assisted myself and the Waimanalo community on this RAB issue and was present at all meetings regarding the landfill.

It is clear that the USAF and the USMC are and have conspired to display direct discriminatory acts and disparate treatment towards myself as RAB Community Co-Chairman for Bellows AFB. from me, the Comm. Co-chair.

It is obvious to myself and our community that the USAF and USMC through [REDACTED]  
[REDACTED] has made a commitment to circumvent and violate the laws governing Title VI,  
CERCLA/SARA mandates, and our own RAB charter.

These actions are a violation of trust , held by myself and my community in this federally funded  
program.

Please accept this as my formal complaint and notify me regarding your receipt there of.

Thank you for your attention to this very important matter. I desperately seek your agency to  
help address the ongoing disparate treatment and these unlawful acts of discrimination.

Please contact me by mail at [REDACTED]; by phone at  
[REDACTED]; by e-mail at [REDACTED]; or by fax/phone at [REDACTED]

Sincerely,

[REDACTED]  
Community Co-chairman  
Restoration Advisory Board  
Bellows Air Force Base, Hi.

Cc; Karen Higginbotham , Dir. OCR  
Ralph F. Boyd, Jr. , Assist. U.S. Attny. Gen.